

December 7th PH

Docket No. 9-65-06 & 10-47-06

Amendments to Land Development Code, Chapters 6 and 7 to reflect requirements of the System Development Charge Ordinance.

Staff Case Manager: Theresa Senninger, Legal Counsel

Applicant: Louisville Metro Government

Notice of this public hearing appeared in **The Courier Journal** on November 29, 2006.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

The following spoke in favor of this request:

No one spoke.

The following spoke in opposition:

No one spoke.

The following spoke neither for nor against:

No one spoke.

AGENCY TESTIMONY:

Theresa Senninger, Legal Counsel for the Jefferson County Attorney's Office, presented the case. (See staff report for verbatim presentation.)

REBUTTAL:

No rebuttal was needed because no one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the December 7, 2006 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

Section 6.2.1

On a motion by Commissioner Carlson, the following resolution was adopted:

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville/Jefferson County Metro Government that the proposed amendment of Section 6.2.1 of the Land Development Code as noted in the staff report be **APPROVED**.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Hamilton, Queenan, Wells-Hatfield, Blake, Abstain, and Adkins.

NO: No one.

NOT PRESENT: Commissioner Howard.

ABSTAINING: No one.

Section 7.3.10 and Section 7.8.12

On a motion by Commissioner Carlson, the following resolution was adopted:

WHEREAS, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

RESOLVED, that the Louisville Metro Planning Commission does hereby **APPROVE** the proposed amendments of Section 7.3.10 and Section 7.8.12 of the Land Development Code as noted in the staff report.

The vote was as follows:

YES: Commissioners Ernst, Carlson, Hamilton, Queenan, Wells-Hatfield, Blake, Abstain, and Adkins.

NO: No one.

NOT PRESENT: Commissioner Howard.

ABSTAINING: No one.

This is a proposal to amend sections of Chapters 6 and 7 of the Land Development Code to reflect the requirements of Chapter 164 of the Louisville Metro Code of Ordinances, the System Development Charge Ordinance.

The Planning Commission must make a recommendation to the Metro Council on the proposed changes to Chapter 6 (Mobility Standards), but will take final action on the proposed changes to Chapter 7 (Subdivision Regulations).

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments, as the revisions to the Land Development Code are necessary to make that document accurately reflect the requirements of the System Development Charge Ordinance.

BACKGROUND INFORMATION

The System Development Charge for Roadways Ordinance, Chapter 164 of the Louisville Metro Code of Ordinances (“System Development Charge Ordinance”), was adopted by the Louisville Metro Council in March of 2006. Since that date, necessary changes have been identified in the Land Development Code to ensure that it does not contradict the System Development Charge Ordinance and that the two sets of requirements coordinate to appropriately guide development. Amendments in Chapters 6 and 7 have been identified as necessary to bring about this coordination.

The System Development Charge Ordinance was enacted as a response to existing roadway safety issues that have intensified as a result of demands for new residential development in Louisville Metro. The Ordinance creates a public/private partnership to finance the cost of roadway improvements in areas of Louisville Metro experiencing the greatest pressures for development, and that also contain the largest proportion of substandard roads.

The System Development Charge Ordinance distinguishes between Designated and Non-Designated Roads, and provides a source of private funding to bring Designated Roads up to safety standards contained in the Louisville Metro Code of Ordinances. The System Development Charge identifies four Transportation Benefit Districts (“Benefit Districts”) in a portion of Louisville Metro. Benefit Districts were selected based on current development pressures as well as the number of substandard roads contained in a particular area. A charge is due for each type of new residential unit constructed in a Benefit District, regardless of its location on a Designated or Non-Designated Road. Developments on Designated Roads may go forward on a limited basis¹ with construction without improving the road to meet safety standards, but developments on Non-Designated Roads may not go forward with construction until the developer

¹ Developments located on Designated Roads may choose to go forward with one dwelling unit per five acres of the development site in accordance with the approved subdivision plan until such time as the Designated Road has been improved to meet minimum safety standards, or the developer may, with the permission of the System Development Charge Administrator, improve the road and receive reimbursement for doing so from the Louisville Metro Government.

improves the road to meet all requirements of the Louisville Metro Code of Ordinances.

PROPOSAL AND STAFF ANALYSIS

Proposed Amendment 1:

Section 6.2.1 Applicability and General Standards

B. In no case shall any new lots be created or new street constructed that does not meet a pavement width of at least 18 feet, except that a five lot, five acre per lot subdivision may be accessed by a 12 foot gravel road with 3 foot earthen shoulders. The provisions of this paragraph shall not apply to roads that are Designated Roads under the System Development Charge for Roadways Ordinance, Chapter 164 of the Louisville Metro Code of Ordinances.

Staff Analysis:

The proposed amendment to Section 6.2.1 would create an exception to the LDC requirement that all new lots must be located on streets that meet certain roadway width standards where those new lots are located on Designated Roads. The change is required to make the standards for development in the Land Development Code consistent with what is permitted under the System Development Charge Ordinance. Under the System Development Charge Ordinance, a development located on a Designated Road may go forward, at least to a limited extent, prior to the improvement of the road to minimum safety standards. The existing language of this Section requires the improvement of Non-Designated Roads prior to the creation of new lots, which is consistent with the requirements of the System Development Charge Ordinance.

Proposed Amendment 2:

Section 7.3.10 Streets

In or adjoining any major subdivision of land hereafter proposed, access from any new lots or a new street connecting an existing street shall not be approved unless the Planning Commission, with input from the Director of Works, determines that the subdivision will be served by an adequate street network. In order to be considered adequate, the street or combination of streets providing the most direct means of access to an arterial street shall have a minimum roadway width of 18 feet of pavement. The Commission may determine, based on input from the Director of Works, that the traffic flow associated with a proposed subdivision will utilize more than one route to one or more arterial streets. As a result of such determination, the Planning Commission may require that more than one route (street or combination of streets) must have a minimum

roadway width of 18 feet. *² In addition to roadway width, the Planning Commission may require other off-site improvements to correct conditions that would impede the safe flow of traffic associated with the new subdivision. Subdivisions that create no more than five lots of five acres or more each are not subject to the requirements of this paragraph. (Arterial level streets are shown on Core Graphic 10: Roadway Classifications and Projected Corridors.) The provisions of this paragraph shall not apply to roads that are Designated Roads under the System Development Charge for Roadways Ordinance, Chapter 164 of the Louisville Metro Code of Ordinances.

Staff Analysis:

The proposed changes to Section 7.3.10 would create an exception to the LDC requirement that all subdivisions must be served by an adequate street network, and that the Planning Commission can require substandard roads to be brought up to minimum safety standards and that additional off-site improvements may be required to correct conditions that would impede the safe flow of traffic to the subdivision. The System Development Charge Ordinance provides a method for improving substandard Designated Roads, and where subdivisions are located on those roads, the requirements of this Section are not required to ensure traffic safety associated with the subdivision. Because the System Development Charge creates standards for roadway improvements and includes provisions that address off-site improvements, the Planning Commission will not need to address roadway width for subdivisions located on Designated Roads to ensure that minimum safety standards are met.

Staff recommends that the language proposed to be added to this Section be amended and placed at the asterix inserted into the text of the Section shown above, rather than at the end of the paragraph. The proposed amendment reads: "The preceding provisions shall not apply to roads that are Designated Roads under the System Development Charge for Roadways Ordinance, Chapter 164 of the Louisville Metro Code of Ordinances."

Placement of the language at the end of the paragraph could lead to confusion regarding the ability of the Planning Commission to require off-site roadway improvements to correct safety issues. The System Development Charge Ordinance was intended only to allow developments to go forward on Designated Roads without the need to improve those roads to meet minimum safety standards as a condition of subdivision approval. The System Development Charge Ordinance does not preclude the Planning Commission from requiring

² The asterix symbol inserted into the text at this point represents Staff's recommended location for the proposed additional language in this paragraph. Additional information regarding this recommendation is contained in the Staff Analysis associated with this Section.

what that Ordinance refers to as “Non-Site-Related Improvements,” but does provide that if such improvements are required, their cost can be used to offset the total System Development Charge due for the development. The relocation of the proposed language acknowledges the requirements of the System Development Charge but preserves the authority of the Planning Commission to require additional improvements where necessary.

Proposed Amendment 3:

Section 7.8.12 Administrative Approval

Commission Approval may be given by the Director of the Division of Planning and Design Services or any authorized staff member of the division when all of the following criteria are met:

* * * * *

E. All resulting lots have frontage on an existing public or private street with pavement at least 18 feet wide, except that roads serving no more than 5 lots of 5 acres or more may be 12 feet wide with 3 foot shoulders on each side; provided, however, that the provisions of this subparagraph shall not apply to roads that are Designated Roads under the System Development Charge for Roadways Ordinance, Chapter 164 of the Louisville Metro Code of Ordinances.

Staff Analysis:

The proposed changes to Section 7.8.12.E would create an exception to the requirement that the administrative approval of a minor plat requires roads serving new lots created under the minor plat to be a minimum of 18 feet wide if public, and a minimum of 12 feet wide if private. The new language would allow the Director of the Division of Planning and Design Services or any authorized staff member of that Division to grant administrative approval to a minor subdivision request, if the subject property is located on a Designated Road, regardless of whether the road meets the standards set forth in this Section. This is consistent with the requirements and intent of the System Development Charge Ordinance.

NOTIFICATION PROVIDED

Date	Description	Recipients
11/30/06	Publication	General Public (Courier Journal Publication)